

# HOUSE BILL No. 1543

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-20.

**Synopsis:** Voter approval of capital projects. Requires local capital projects that will cost more than \$2,000,000 to be approved at a local referendum.

**Effective:** July 1, 2005.

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## Borders

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January 18, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1543

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-1.1-20-3.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.1. **(a) This section**  
3 **applies only to a controlled project for which the proper officers of**  
4 **a political subdivision make a preliminary determination to issue**  
5 **bonds or enter into a lease before July 1, 2005.**

6 **(b)** A political subdivision may not impose property taxes to pay  
7 debt service or lease rentals without completing the following  
8 procedures:

9 (1) The proper officers of a political subdivision shall:

10 (A) publish notice in accordance with IC 5-3-1; and

11 (B) send notice by first class mail to any organization that  
12 delivers to the officers, before January 1 of that year, an annual  
13 written request for such notices;

14 of any meeting to consider adoption of a resolution or an  
15 ordinance making a preliminary determination to issue bonds or  
16 enter into a lease and shall conduct a public hearing on a  
17 preliminary determination before adoption of the resolution or



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ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause (F).

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) owners of real property within the political subdivision; or

(B) five percent (5%) of the owners of real property within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county

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auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

- (A) the carrier and signers must be owners of real property;
- (B) the carrier must be a signatory on at least one (1) petition;
- (C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and
- (D) govern the closing date for the petition period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision (7).

(7) Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county auditor must file a certificate and each petition with:

- (A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or
- (B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within fifteen (15) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision.

(c) If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 2. IC 6-1.1-20-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) **This section applies only to a controlled project for which the proper officers of**

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**a political subdivision make a preliminary determination to issue bonds or enter into a lease before July 1, 2005.**

**(b)** If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision. Each signature on a petition must be dated and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county auditor under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor or the county auditor's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition or remonstrance forms requested by the owner or owners. Each form must be accompanied by instructions

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detailing the requirements that:

- (A) the carrier and signers must be owners of real property;
- (B) the carrier must be a signatory on at least one (1) petition;
- (C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;
- (D) govern the closing date for the petition and remonstrance period; and
- (E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners. The county auditor may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within fifteen (15) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision.

(6) If a greater number of owners of real property within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the

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county auditor's certificate under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance required by IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

SECTION 3. IC 6-1.1-20-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.5. (a) This section applies only to a controlled project for which the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease after June 30, 2005.**

**(b) A political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:**

**(1) The proper officers of a political subdivision shall:**

**(A) publish notice in accordance with IC 5-3-1; and**

**(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for notices;**

**of any meeting to consider the adoption of an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the ordinance or resolution.**

**(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:**

**(A) publication in accordance with IC 5-3-1; and**

**(B) first class mail to the organizations described in subdivision (1)(B).**

**(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:**

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- (A) The maximum term of the bonds or lease.
- (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
- (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
- (D) The purpose of the bonds or lease.
- (E) A statement that the proposed debt service or lease payments must be approved in a local public question held under section 3.6 of this chapter.
- (F) With respect to bonds issued or a lease entered into to open:
- (i) a new school facility; or
  - (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;
- the estimated costs the school corporation expects to annually incur to operate the facility.
- (G) A statement of whether the school corporation expects to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause (F).

SECTION 4. IC 6-1.1-20-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.6. (a) This section applies only to a controlled project for which the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease after June 30, 2005.

(b) A political subdivision may not impose property taxes to pay debt service or lease rentals unless the political subdivision's proposed debt service or lease rental is approved in a local public question held under the procedures in this section.

(c) The following question shall be submitted to the voters at the election conducted under this section:

"Shall \_\_\_\_\_ (insert the name of the political subdivision) issue bonds or enter a lease to finance \_\_\_\_\_ (insert the name of the controlled project)?"

(d) The county auditor shall certify the public question described in subsection (c) under IC 3-10-9-3 to the county election board of the county that contains the greatest percentage of population of the political subdivision. After the public question is certified, the public question shall be placed on the ballot at the next primary or general election in which all voters of the political

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subdivision are entitled to vote.

(e) The circuit court clerk shall certify the results of the public question to the following:

(1) The county auditor of each county in which the political subdivision is located.

(2) The department of local government finance.

(f) If a majority of the voters voting on the public question vote in favor of the public question, the department of local government finance shall take prompt and appropriate steps to notify the political subdivision that the political subdivision may issue the proposed bonds or enter into the proposed lease rental.

(g) If a majority of the voters voting on the public question vote in opposition to the public question, both of the following apply:

(1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.

(2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than one (1) year after the date of the election.

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

SECTION 5. IC 6-1.1-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) When the proper officers of a political subdivision decide to issue bonds payable from property taxes to finance a public improvement, they shall adopt an ordinance or resolution which sets forth their determination to issue the bonds. Except as provided in subsection (b), the political subdivision may not advertise for or receive bids for the construction of the improvement until ~~the expiration of the latter of:~~ **after:**

(1) ~~the expiration of~~ the time period within which taxpayers may file a petition for review of or a remonstrance against the proposed issue **in the case of a proposed issue that is subject to section 3.1 of this chapter;**

(2) **the proposed issue is approved in a local public question held under the procedures in section 3.6 of this chapter in the case of a proposed issue that is subject to section 3.5 of this chapter; or**

~~(2) (3)~~ (3) the time period during which a petition for review of the proposed issue is pending before the department of local government finance.

(b) When a petition for review of a proposed issue is pending before the department of local government finance, the department may order the political subdivision to advertise for and receive bids for the

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1 construction of the public improvement. When the department of local  
 2 government finance issues such an order, the political subdivision shall  
 3 file a bid report with the department within five (5) days after the bids  
 4 are received, and the department shall render a final decision on the  
 5 proposed issue within fifteen (15) days after it receives the bid report.  
 6 Notwithstanding the provisions of this subsection, a political  
 7 subdivision may not enter into a contract for the construction of a  
 8 public improvement while a petition for review of the bond issue which  
 9 is to finance the improvement is pending before the department of local  
 10 government finance.

11 SECTION 6. IC 6-1.1-20-10 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) **This section**  
 13 **applies** if a petition and remonstrance process is commenced under  
 14 section 3.2 of this chapter **or a public question is certified to the**  
 15 **county election board under section 3.6(d) of this chapter.**

16 (b) During the sixty (60) day period commencing with the notice  
 17 under section 3.2(1) of this chapter **(in the case of a controlled**  
 18 **project for which the proper officers of a political subdivision**  
 19 **make a preliminary determination to issue bonds or enter into a**  
 20 **lease before July 1, 2005) or during the period after a public**  
 21 **question is certified to the county election board under section**  
 22 **3.6(d) of this chapter (in the case of a controlled project for which**  
 23 **the proper officers of a political subdivision make a preliminary**  
 24 **determination to issue bonds or enter into a lease after June 30,**  
 25 **2005),** the political subdivision seeking to issue bonds or enter into a  
 26 lease for the proposed controlled project may not promote a position on  
 27 the petition or remonstrance **or public question** by doing any of the  
 28 following:

29 (1) Allowing facilities or equipment, including mail and  
 30 messaging systems, owned by the political subdivision to be used  
 31 for public relations purposes to promote a position on the petition  
 32 or remonstrance **or public question**, unless equal access to the  
 33 facilities or equipment is given to persons with a position opposite  
 34 to that of the political subdivision.

35 (2) Making an expenditure of money from a fund controlled by  
 36 the political subdivision to promote a position on the petition or  
 37 remonstrance **or public question** (except as necessary to explain  
 38 the project to the public) or to pay for the gathering of signatures  
 39 on a petition or remonstrance. This subdivision does not prohibit  
 40 a political subdivision from making an expenditure of money to  
 41 an attorney, an architect, a construction manager, or a financial  
 42 adviser for professional services provided with respect to a

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1 controlled project.

2 (3) Using an employee to promote a position on the petition or  
3 remonstrance **or public question** during the employee's normal  
4 working hours or paid overtime.

5 (4) In the case of a school corporation, promoting a position on a  
6 petition or remonstrance **or public question** by:

7 (A) using students to transport written materials to their  
8 residences; or

9 (B) including a statement within another communication sent  
10 to the students' residences.

11 However, this section does not prohibit an employee of the political  
12 subdivision from carrying out duties with respect to a petition or  
13 remonstrance **or public question** that are part of the normal and  
14 regular conduct of the employee's office or agency.

15 (b) A person may not solicit or collect signatures for a petition or  
16 remonstrance on property owned or controlled by the political  
17 subdivision.

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